

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BLUE SPIKE, LLC,

Plaintiff,

V.

TEXAS INSTRUMENTS, INC., *et al.*,

Defendants.

Civil Action No. 6:12-CV-499
(Consolidated from 6:12-CV-533)

JURY TRIAL DEMANDED

**PLAINTIFF’S REPLY IN RESPONSE TO DEFENDANT
TUNESAT’S COUNTERCLAIMS**

Plaintiff Blue Spike, LLC files this Reply to the Counterclaims of TuneSat, LLC. (“TuneSat” or “Defendant”) (Dkt. No. 17) as follows. All allegations not expressly admitted or responded to by Plaintiff are denied.

PARTIES AND JURISDICTION

75. Plaintiff admits the allegations of Paragraph 75, upon information and belief.

76. Plaintiff admits the allegations of Paragraph 76.

77. Plaintiff admits that this Court has subject matter jurisdiction over Defendant's declaratory judgment claims and that a controversy exists.

78. Plaintiff admits that it is subject to personal jurisdiction in this Court.

79. Plaintiff admits that venue is proper in this District.

FIRST COUNTERCLAIM

80. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 75 through 79 above.

81. Plaintiff admits that Defendant purports to bring a declaratory judgment action.

82. The allegations in Paragraph 82 are admitted.

83. The allegations in Paragraph 83 are denied.

84. The allegations in Paragraph 84 are denied.

85. The allegations in Paragraph 85 are denied.

SECOND COUNTERCLAIM

86. Plaintiff repeats and incorporates by reference its responses to the allegations contained in Paragraphs 75 through 85 above.

87. Plaintiff admits that Defendant purports to bring a declaratory judgment action.

88. The allegations in Paragraph 88 are admitted.

89. The allegations in Paragraph 89 are denied.

90. The allegations in Paragraph 90 are denied.

REQUEST FOR RELIEF

Plaintiff denies that Defendant is entitled to any of the relief it requests.

PLAINTIFF'S PRAYER FOR RELIEF

In addition to the relief requested in Plaintiff's Original Complaint, Plaintiff respectfully requests a judgment against Defendant as follows:

- (a) That Defendant take nothing by its Counterclaims;
- (b) That the Court award Plaintiff its costs and attorneys' fees incurred in defending against these Counterclaims; and
- (c) Any and all further relief for the Plaintiff as the Court may deem just and proper.

Dated: October 31, 2012

Respectfully submitted,

/s/ Randall T. Garteiser
Randall T. Garteiser
Lead Attorney
Texas Bar No. 24038912

randall.garteiser@sfttrialattorneys.com

Christopher A. Honea

Texas Bar No. 24059967

chris.honea@sfttrialattorneys.com

Christopher S. Johns

Texas Bar No. 24044849

chris.johns@sfttrialattorneys.com

GARTEISER HONEA, P.C.

44 North San Pedro Road

San Rafael, California 94903

Telephone: (415) 785-3762

Facsimile: (415) 785-3805

Eric M. Albritton

Texas State Bar No. 00790215

ema@emafirm.com

Stephen E. Edwards

Texas State Bar No. 00784008

see@emafirm.com

Michael A. Benefield

Texas State Bar No. 24073408

mab@emafirm.com

ALBRITTON LAW FIRM

P.O. Box 2649

Longview, Texas 75606

Telephone: (903) 757-8449

Facsimile: (903) 758-7397

Counsel for Blue Spike, LLC

CERTIFICATE OF SERVICE

I, Randall T. Garteiser, am the ECF User whose ID and password are being used to file this document. I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this day. Pursuant to Federal Rule of Civil Procedure 5, this document was served via U.S. Mail and electronic means to counsel for Defendant that are not receiving this document via CM/ECF.

/s/ Randall T. Garteiser
Randall T. Garteiser